

1                                   **BEFORE THE ARIZONA STATE VETERINARY MEDICAL**  
2                                   **EXAMINING BOARD**

3 IN THE MATTER OF:                                   ) **Case Nos.: 18-16 and 18-18**  
4                                   ) **FINDINGS OF FACT,**  
5 **EDWIN KIESEL, DVM**                                   ) **CONCLUSIONS OF LAW**  
6 Holder of License No. 1360                                   ) **AND ORDER**  
7 For the practice of Veterinary                                   )  
8 Medicine in the State of Arizona,                                   )  
9 **Respondent.**                                   )

9           On February 21, 2018 and March 21, 2018, the Arizona State Veterinary  
10 Medical Examining Board conducted an Informal Interview regarding Edwin  
11 Kiesel, DVM ("Respondent"). The proceedings in this matter are governed by  
12 A.R.S. § 32-2234 (A). Respondent was advised of his right to legal counsel by  
13 letter, appeared, and participated in the Informal Interview with counsel, David  
14 Stoll. The Board reviewed all documents submitted regarding this matter, took  
15 testimony from Respondent, and proceeded as is permitted by A.R.S. § 32-2234  
16 (A).

17           Following the Informal Interview and the Board's discussion of the  
18 information and documents submitted, the Board determined that  
19 Respondent's conduct constituted medical incompetence pursuant A.R.S. §  
20 32-2232 (22) and ARS § 32-2232 (21) medical record keeping. After considering  
21 all of the information and testimony, the Board issues the following Findings of  
22 Fact, Conclusions of Law and Order, ("Order").

23                                   **FINDINGS OF FACT**  
24  
25

1 1. Respondent is the holder of License No. 1360 issued on June 13, 1981, and  
2 is therefore authorized to practice the profession of veterinary medicine in the  
3 State of Arizona.

4 **18-16:**

5 2. On May 31, 2017, "Gabby," a 7-year-old female domestic short hair cat  
6 was presented to Respondent due to ocular and nasal discharge. According  
7 to Complainant, Respondent advised her that the cat had a bad tooth that  
8 needed to be extracted, explaining that teeth and nasal cavity are connected  
9 and the cat would continue to get worse until the tooth was removed. Upon  
10 exam, the cat had a weight = 10.9 pounds, a temperature = 101.9 degrees, a  
11 heart rate = 180bpm and a respiration rate = 40rpm; BP = 218/156. Respondent  
12 noted that the cat had discharge coming from the right eye and right nasal  
13 passage. He further noted that the cat had a bad tooth in the back right side  
14 of the mouth; therefore, he recommended antibiotics and a dental procedure.

15 3. A Schirmer tear test was performed: Left eye -23; Right eye - 28.  
16 Amoxicillin drops and Tobramycin ophthalmic solution were dispensed and the  
17 cat was discharged. Complainant made an appointment for the cat's teeth to  
18 be evaluated and possible extractions.

19 4. On June 8, 2017, the cat was presented to Respondent for tooth  
20 extraction. Blood was collected and revealed an elevated BUN (42) and  
21 Creatinine (2.2). Respondent thought it would be best to hold off on surgery  
22 due to the cat's kidney values. He contacted Complainant's husband and  
23 explained that anesthesia was a greater risk due to the elevated kidney values  
24 and wanted to put the cat on a special diet and recheck in a week.  
25

1        5. On July 15, 2017, the cat was presented to Respondent for a tooth  
2 extraction. The cat had a temperature = 101.2 degrees, a heart rate = 169bpm  
3 and a respiration rate = 45rpm (no weight noted) just prior to placing in box to  
4 anesthetize; out of box, the cat had a temperature = 102 degrees, a heart rate  
5 = 150bpm and a respiration rate = 30rpm. No other systems were noted as  
6 being examined.

7        6. According to Respondent, he held the cat and used a mask to  
8 anesthetize her (type of anesthesia unknown); the cat was not intubated. He  
9 cleaned the teeth but since the renal values were high and the infection  
10 appeared under control, he did not want to stress the cat further by extracting  
11 teeth. The medical record reads that the teeth were in good shape; only the  
12 upper left molars were bad with calculi and red gums. The calculi was broken  
13 off using a ronguer and an electronic scaler. The teeth were quickly polished as  
14 the cat was waking. No IV or SQ fluids were administered. Recovery was  
15 uneventful (T = 101.4, P – 155, R – 45). Authorization to perform surgery was not  
16 obtained.

17        7. According to Complainant, when she arrived to pick up the cat, she was  
18 told the cat was administered an antibiotic injection that would last 10 days.  
19 There are no notations in the medical record that the cat was administered an  
20 injection. Discharge instructions were not documented in the medical record.

21        8. On July 26, 2017, the cat was presented to Respondent for a recheck as  
22 the cat was progressively getting worse, not eating, and losing weight.  
23 According to Complainant, staff member Mary examined the cat and advised  
24 that Respondent would be in shortly. Approximately an hour later, Mary  
25 returned to explain that Respondent wanted the cat to stay overnight as he

1 thought a tooth fragment had been left behind and he would like to  
2 anesthetize her again to evaluate the area. Complainant approved and left  
3 the cat without speaking with Respondent.

4 9. The following day (7/27), blood work was performed. Respondent noted in  
5 the medical record that there was a light yellow mucoid discharge coming  
6 from the right nostril and teeth looked fine but only a radiograph could tell  
7 them for sure and anesthesia would be needed for that. Respondent further  
8 documented that the blood work showed the cat was now anemic with a PCV  
9 = 19% (HCT on lab strip = 38.22%); therefore, would bypass the anesthesia and  
10 radiographs for now and try convenia again with tobramycin nasally; if the  
11 problem became chronic, he would need radiographs under anesthesia.

12 10. However, Respondent stated in his narrative that he elected to  
13 anesthetize the cat again with isoflurane; the mouth looked fine and he would  
14 have pulled teeth at this time but now the blood work showed that the cat was  
15 anemic. Authorization to perform surgery was not obtained.

16 11. Respondent's medical records show surgical monitoring that the cat was  
17 anesthetized for 30 minutes. The medical record reads that Respondent was  
18 not able to take radiographs which would be what they may need and can be  
19 done later if this does not work. Respondent cleaned teeth but there was no  
20 real tartar build up or gum disease and no exposed roots – may need deeper  
21 anesthesia to get radiographs and remove teeth. The cat was administered  
22 convenia 80mg/mL, 0.4mL – route unknown, and dispensed Tobramycin –  
23 apply one drop between nostrils three times a day.

24 12. According to Complainant, after leaving numerous messages, she was  
25 finally called and told the cat was doing well and could be picked up. When

1 she arrived at the premise, she was handed the cat with no information on why  
2 the cat was not getting better. Respondent walked out into the lobby to adjust  
3 the thermostats and turn the lights off; therefore, Complainant asked what he  
4 found. Respondent told her that the congestion was a residual to the tooth  
5 being pulled and would subside in about a week. Another antibiotic injection  
6 was given along with nose drops to take home. No discharge instructions were  
7 documented in the medical record.

8 **18-18:**

9 13. On August 18, 2016, "Angel," a 1.5-year-old female domestic medium  
10 hair feral cat was presented to Respondent for an exam, vaccines, ear tip, and  
11 spay procedure. According to Respondent, the cat was too feral to examine,  
12 therefore the cat was anesthetized. There is no documentation in the medical  
13 record what was used to anesthetize the cat, nor was any monitoring for the  
14 duration the cat anesthetized. Upon exam, the cat had a weight = 6.7 pounds,  
15 a temperature = 103 degrees, a heart rate = 154bpm and a respiration rate =  
16 30rpm; BP = 154/80. Respondent noted that the cat had thick nasal discharge  
17 with blood. Due to the nasal discharge and elevated temperature, Respondent  
18 elected to wait until the cat was feeling better before spaying. The cat was  
19 administered a convenia injection (amount, strength and route unknown) and  
20 treated with tobramycin ophthalmic solution; the cat was kept at the premise in  
21 isolation.

22 14. The medical record reads that the cat was weighed and examined  
23 every day, including a temperature, heart rate, respiration rate and blood  
24 pressure, as well as being administered tobramycin to the nostrils, despite the  
25 cat being feral. Previously, Respondent stated the cat could not be examined

1 unless the cat was anesthetized. Interestingly, the daily documented  
2 temperature, pulse, respiration rate and blood pressure did not fluctuate much.  
3 The August 20, 2016 entry is stamped that Respondent edited the entry on July  
4 13, 2017.

5 15. On September 1, 2016, the record reads that Complainant called and  
6 was advised that the cat was not spayed that day due to the continued  
7 elevated temperature and bloody nasal drainage. Complainant was told that  
8 the cat was given an antibiotic injection which would be good for 2 weeks  
9 (unclear if this the second antibiotic injection the cat received). Complainant  
10 elected to take the cat home to monitor and bring back to be spayed.  
11 According to Complainant, he was advised that the cat was spayed.

12 16. 4. It is not clear if the cat was vaccinated or if the ear was tipped at this  
13 time.

14 17. On October 26, 2016, according to Complainant, the cat gave birth to  
15 three kittens. The Complainant called Respondent and was advised that the  
16 cat must have been pregnant prior to being spayed.

17 18. Complainant stated the cat had another litter of kittens in October 2017.

18 19. On August 31, 2017, the cat was presented to Santa Cruz Veterinary  
19 Hospital for an exam. Complainant explained that the cat was brought to  
20 Respondent's premise to be spayed, but the cat had kittens. The medical  
21 record lists the cat as a 1-year-old female domestic short hair cat.

22 20. Medical record reads that the cat could not be examined due to being  
23 feral; therefore, the cat was anesthetized. It was noted that the cat had a flank  
24 scar and the left ear was tipped; the abdomen was distended. Surgical notes  
25 read that the right ovary was scarred down and was bluntly dissected out. The

1 right kidney appeared normal. The right ovary was removed and the abdomen  
2 was closed.

### 3 CONCLUSIONS OF LAW

4 21. The Arizona State Veterinary Medical Examining Board has jurisdiction  
5 over this matter pursuant to A.R.S. § 32-2201, et seq.

#### 6 18-16:

7 22. The conduct and circumstances described in the Findings of Fact above,  
8 constitutes a violation of **A.R.S. § 32-2232 (22)** Medical incompetence; lacked  
9 sufficient knowledge or skill to a degree likely to endanger the health of the cat  
10 as demonstrated by the inability to intubate the cat or place an IV catheter  
11 and proceeded with the dental cleaning.

12 23. The conduct and circumstances described in the Findings of Fact above,  
13 constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502**  
14 **(E)** no discharge instructions documented in the medical record on July 15,  
15 2017 or July 27, 2017.

16 24. The conduct and circumstances described in the Findings of Fact above,  
17 constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502**  
18 **(H) (1)** no signed authorization was obtained before general anesthesia was  
19 administered or surgery was performed on July 15, 2017 or July 27, 2017.

20 25. The conduct and circumstances described in the Findings of Fact above,  
21 constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502 (L)**  
22 **(4)** no results of an exam documented in the medical record on July 15, 2017.

#### 23 18-18:

24 26. The conduct and circumstances described in the Findings of Fact above,  
25 constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502 (L)**

1 (b) failure to document in the medical record the amount of the convenia  
2 administered to the cat on August 18, 2016.

3 27. The conduct and circumstances described in the Findings of Fact above,  
4 constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502 (L)**  
5 (d) failure to document in the medical record the route of administration of the  
6 convenia administered to the cat on August 18, 2016.

### 8 **ORDER**

9 Based upon the foregoing Findings of Fact and Conclusions of Law it is  
10 **ORDERED** that Respondent's License, No. 1360 be placed on **PROBATION** for a  
11 period of two (2) years, subject to the following terms and conditions that shall  
12 be completed within the Probationary period. These requirements include  
13 fourteen (14) total hours of continuing education (CE) and a civil penalty  
14 detailed below:

15 1. **IT IS ORDERED THAT** Respondent shall provide written proof satisfactory  
16 to the Board that he has completed six (6) hours of continuing education (CE);  
17 hours earned in compliance with this order shall not be used for licensure  
18 renewal. Respondent shall satisfy these six (6) hours by attending CE in the area  
19 of anesthesia. Respondent shall submit written verification of attendance to the  
20 Board for approval prior to the end of the Probation period.

21 2. **IT IS ORDERED THAT** Respondent shall provide written proof satisfactory  
22 to the Board that he has completed four (4) hours of continuing education  
23 (CE); hours earned in compliance with this order shall not be used for licensure  
24 renewal. Respondent shall satisfy these four (4) hours by attending CE in the  
25



1 area of client communication. Respondent shall submit written verification of  
2 attendance to the Board for approval prior to the end of the Probation period.

3 **3. IT IS ORDERED THAT** Respondent shall provide written proof satisfactory  
4 to the Board that he has completed four (4) hours of continuing education  
5 (CE); hours earned in compliance with this order shall not be used for licensure  
6 renewal. Respondent shall satisfy these four (4) hours by attending CE in the  
7 area of veterinary ethics as applied to client communication. Respondent shall  
8 submit written verification of attendance to the Board for approval prior to the  
9 end of the Probation period.

10 **4. IT IS FURTHER ORDERED THAT** Respondent shall pay a civil penalty of one  
11 thousand seven hundred fifty dollars (\$1750) on or before the end of the  
12 Probation period. {This total amount represents two-hundred fifty dollars (\$250)  
13 per each of the five medical record violations and five hundred dollars (\$500)  
14 for the medical incompetence violation.} The civil penalty shall be made  
15 payable to the Arizona State Veterinary Medical Examining Board and is to be  
16 paid by cashier's check or money order.

17 **5.** All continuing education to be completed for this Order shall be pre-  
18 approved by the Board. Respondent shall submit to the Board a written outline  
19 regarding how he plans to satisfy the requirements in paragraphs 1, 2, and 3 for  
20 its approval within sixty (60) days of the effective date of this Order. The outline  
21 shall include **CE course** details including, **name, provider, date(s), hours of CE** to  
22 be earned, and **a brief course summary**.

23 **6.** Respondent shall obey all federal, state and local laws/rules governing  
24 the practice of veterinary medicine in this state.

25 **7.** Respondent shall bear all costs of complying with this Order.

1 8. This Order is conclusive evidence of the matters described and may be  
2 considered by the Board in determining an appropriate sanction in the event a  
3 subsequent violation occurs. In the event Respondent violates any term of this  
4 Order, the Board may, after opportunity for Informal Interview or Formal  
5 Hearing, take any other appropriate disciplinary action authorized by law,  
6 including suspension or revocation of Respondent's license.

7  
8 **REHEARING/APPEAL RIGHTS**

9 Respondent has the right to petition for a rehearing or review of this Order.  
10 Pursuant to A.R.S. § 32-2234 (H) and § 41-1092.09 the petition must be filed with  
11 the Board within thirty-five (35) days from the date of mailing if the Order was  
12 served via certified mail. Pursuant to A.A.C. R3-11-904 (C), the petition must set  
13 forth legally sufficient reasons for granting the rehearing or review. The filing of  
14 a petition for rehearing or review is required to preserve any rights of appeal to  
15 the Superior Court that the party may wish to pursue.

16 This Order shall be effective and in force upon the expiration of the above  
17 time period for filing a motion for rehearing or review with the Board. However,  
18 the timely filing of a motion for rehearing or review shall stay the enforcement  
19 of the Board's Order, unless, pursuant to A.A.C. R3-11-904 (F), the Board has  
20 expressly found good cause to believe that this Order shall be effectively  
21 immediately upon the issuance and has so stated in this Order.

22  
23 Dated this 29<sup>th</sup> day of March, 2018.

24 Arizona State Veterinary Medical Examining Board  
25 Jim Loughhead  
Chairman

1  
2 By: Victoria Whitmore  
3 Victoria Whitmore, Executive Director  
4  
5

6 Original of the foregoing filed this 29<sup>th</sup> day of March, 2018  
7 with the:

8 Arizona State Veterinary  
9 Medical Examining Board  
10 1740 W. Adams St., Ste. 4600  
11 Phoenix, Arizona 85007

12 Copy of the foregoing sent by certified, return receipt mail  
13 this 29<sup>th</sup> day of March, 2018 to:

14 Edwin Kiesel, DVM.  
15 Address on file  
16 Respondent

17 Copy of the foregoing sent by regular mail  
18 this 29<sup>th</sup> day of March, 2018 to:

19 David Stoll, Esq.  
20 Beaugureau, Hancock, Stoll and Schwartz, PC  
21 302 E. Coronado Rd  
22 Phoenix, Arizona 85004

23 By: Edwin Kiesel  
24 Board Staff  
25